

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

60529

FILE: B-183622

DATE: February 18, 1976

MATTER OF: Consolidated Service, Inc. of Charleston

98596

DIGEST:

1. Protester's assertion that technical evaluation of its proposal was arbitrary is not supported by record where it appears that protester's proposal did not include sufficient information to permit agency to evaluate relationship of protester's prior experience to requirements of solicitation. It is incumbent upon offeror, not agency, to affirmatively establish acceptability of proposal.
2. Where solicitation provides that cost-reimbursement contract will be awarded and that cost, technical, and management factors will be of equal importance in evaluating proposals, claim by offeror submitting lowest proposed costs that costs were not considered in accordance with solicitation is without merit since cost realism, rather than lowest proposed cost, is basis for evaluation and offeror's costs were regarded as unrealistically low.
3. Where agency regards significant difference between offeror's cost estimate and Government estimate as proposal deficiency, such deficiency should be pointed out to offeror when that offeror is included in competitive range. See ASPR § 3-805.3 (a).

Consolidated Service, Inc. of Charleston (CSI) has protested the award of a contract (No. DAAK01-75-C-2186) to Global Associates (Global) under request for proposals (RFP) No. DAAK01-75-R-2089, issued by the U.S. Army Troop Support Command (TROSCOM). CSI claims that the technical evaluation was arbitrary, that costs were not considered as specified in the solicitation, that meaningful negotiations were not conducted, and that the contracting officer desired only to make award to the incumbent contractor, Global.

The RFP was issued on January 18, 1975, and sought proposals to furnish non-personal services necessary to operate and maintain the Government-owned, contractor-operated U.S. Army Charleston Storage Activity at Charleston, South Carolina. Specifically, the

services required by the RFP were (1) the receipt, preservation, storage, and preparation for shipment of specified Army watercraft; (2) the maintenance and minor repair of facilities; and (3) the security and custody of a warehouse and an 80-ton reserve railroad fleet. The RFP contemplated the award of a cost-plus-fixed-fee contract to the offeror submitting the most advantageous proposal to the Government for a contract performance period of 1 year subject to an option, exercisable by the Government, to extend the performance period for up to 2 additional years.

Global, CSI, and two other offerors submitted proposals, each of which was determined to be within the competitive range. "Exploratory negotiations" were conducted with the offerors, during which they were advised of certain areas which TROSCOM's evaluation team regarded as proposal deficiencies. Revised proposals were then submitted.

Evaluation of the revised proposals, including proposed estimated costs, resulted in the following scoring:

<u>Company</u>	<u>Cost Estimate</u>	<u>Cost</u>	<u>Technical</u>	<u>Management</u>	<u>Total</u>
Global	\$975,000	80.2	107.2	126.4	313.8
Vinnell	\$883,374	70.0	81.4	118.7	270.1
Precision Power	\$855,429	33.5	27.9	109.4	170.8
CSI	\$787,768	26.0	35.4	105.9	167.3
Government cost estimate and maximum possible points per category	\$1,088,162	130	128	130	388

TROSCOM then determined that award to Global would be in the best interests of the Government and made the award to that firm.

CSI's assertion regarding the technical evaluation is that TROSCOM did not properly evaluate the CSI proposal because in applying the criteria it failed to equate prior CSI shipboard work experience with the services contemplated by the solicitation.

Proposals were evaluated in accordance with Section D of the RFP, which set forth various factors in the areas of technical, management, and cost. The technical and management factors were

evaluated on the basis of offeror responses to a "Contractor Evaluation Questionnaire" which was included with the RFP as "Exhibit III." The questionnaire stated the following:

"This questionnaire is presented expressly for the purpose of evaluation of prospective contractors qualifications to perform quality assurance, maintenance and management functions for receipt, preservation, storage and issue of amphibians, marine and rail equipment and operations and maintenance of Government Furnished Equipment.

"SECTION I TECHNICAL FACTORS

"1. Experience

Has your firm had any experience in operating, preserving, or storing TROSCOM type equipment according to categories provided below and indicate whether military or commercial application: * * *

[There followed a listing of 22 various sizes and types of vessels, such as tugs, barges, cranes, and LARCs.]

"2. List experience in performing the tasks indicated below and in the scope work to include identification of subject equipment and for whom the work was performed. * * *

[A listing of tasks followed.]

"SECTION II MANAGEMENT FACTORS

[Various information regarding key personnel, prior similar contracts, and plans for budgeting, technical objectives, and labor standards was requested in this section.]

The technical evaluation of CSI's proposal appears to have been reasonable. In its initial proposal CSI responded to section I of the questionnaire by stating "Yes, to all types listed below" under subsection 1 and by stating "Yes, contractor has experience in areas listed" under subsection 2. Included elsewhere in the proposal was a listing of contracts CSI had performed or was performing for the Navy. The listing indicated that the contracts involved the manufacture, overhaul, restoration, modification, and repair of Naval vessels or parts thereof. However, the proposal did not indicate how

any of these contracts involved the types of Army watercraft equipment or tasks listed in the questionnaire. As a result, TROSCOM's evaluators were unable to discern the relationship and applicability of CSI's technical experience on Navy vessels to the technical requirements called for in the RFP. Because of this and a variety of other deficiencies found in its proposal, CSI received relatively low scores in the initial technical evaluation.

The record of negotiations included in the report furnished our Office by the Army indicates that several deficiencies, including CSI's failure to explain the relationship between the Navy contracts and the specific requirements of the RFP and to identify experience with the tasks and types of watercraft listed in the questionnaire, were pointed out to CSI. However, CSI's revised proposal did not cure these deficiencies. The revised proposal contained a "Contract Managerial/Technical Experience Summary" which identified the type of work done on various Navy vessels and purported to show that work was broken down into such categories as warehousing, inspection, and preservation. The proposal did not, however, explain the technical relationship between that work and the technical requirements of the RFP. Rather, it left to TROSCOM the task of discovering, for example, the technical relationship between work done on nuclear submarines and operating, storing, and preserving Army watercraft. As a result, CSI again received low scores.

We think it is clear from this record that TROSCOM, in applying the RFP evaluation criteria, was willing to take into account whatever RFP-related experience CSI had gained from its work on Navy vessels, but that it was unable to perceive that relationship from what CSI had submitted. While such a relationship may well have existed, it was incumbent upon CSI, not the contracting agency, to affirmatively demonstrate the acceptability of its proposal by showing that relationship. See Electronic Communications, Inc., B-183677, January 9, 1976, 55 Comp. Gen. ___, 76-1 CPD ___ and cases cited therein. We find no basis for disagreeing with TROSCOM's determination that CSI did not do this and we therefore cannot conclude that the evaluation was arbitrary.

CSI also contends that costs were not considered as specified in the solicitation, citing, in support thereof, the fact that the CSI cost estimate was substantially less than Global's. The RFP provided that the cost, technical, and management factors were of approximately equal importance. The RFP, however, did not provide that lowness per se of the cost estimates would be a factor in the award. Rather, since a cost-type contract was to be awarded, cost realism and not merely lowest proposed costs were to provide the basis for evaluation. See Armed Services Procurement Regulation (ASPR) § 3-803(c)(1974 ed.); 52 Comp. Gen. 870, 874 (1973);

B-174003, February 10, 1972. In this regard, clause B.22 of the RFP, entitled "Realism of Cost or Price Proposals", warned offerors that any inconsistency between promised performance and proposed cost should be explained or could result in a determination that an offeror did not understand the scope of the work required.

In the present case, the record shows that TROSCOM's evaluation team regarded the Government's cost estimate as an important factor in determining the realism of offeror cost proposals. CSI's proposed cost, although the lowest of the four submitted estimates, deviated the most from the Government estimate and TROSCOM considered CSI's low estimate (\$787,768) to be unreasonably low and reflecting a general lack of understanding of the solicitation's technical and manning requirements. CSI's cost estimate was also regarded as lacking "clarity, trackability and realism." In view of the general lack of detail in the CSI cost proposal and the substantial variance between the Government estimate and CSI's proposed costs, CSI was also given a low score in the cost area. We see no basis, therefore, for concluding that cost was not considered in accordance with the RFP.

With respect to CSI's assertion that meaningful negotiations were not conducted, we note that CSI has made only that bare allegation and has not provided any details to support it. Our review of the record suggests that for the most part meaningful discussions were held. However, we do not believe that TROSCOM adequately apprised CSI of the nature of TROSCOM's concern with the CSI proposed costs. ASPR § 3-805.3(a) provides that "offerors selected to participate in discussions shall be advised of deficiencies in their proposals * * *." The record here shows that TROSCOM's evaluators regarded a significant disparity between CSI's proposed costs and the Government estimate in the technical inspection area as a deficiency. However, although the TROSCOM negotiator informed CSI at the beginning of the discussion session that he would advise CSI "of any deficiencies" in its proposal and did mention several in each of the three evaluation areas, he did not indicate any particular concern with CSI's low cost estimate. We think TROSCOM should have advised CSI of this concern since offerors should be told "in general terms that the cost proposals were considered unrealistic and in detailed terms the specifics of the cost estimate discrepancies * * *." Raytheon Company, 54 Comp. Gen. 169, 185-6 (1974), 74-2 CPD 137; see also Teledyne Lewisburg, Oklahoma Aerotronics, Inc., B-183704, October 10, 1975, 75-2 CPD 228.

We cannot conclude, however, that the award should be upset on this basis, since in view of the low technical score given the CSI proposal it appears that CSI would not have been selected for

B-183622

award even if it had received the maximum possible score in the cost area. See 52 Comp. Gen. 718, 725 (1973); B-177968, June 26, 1973. However, we are recommending to the Secretary of the Army that steps be taken to preclude a recurrence of this negotiation inadequacy.

CSI's final contention is that throughout the procurement the contracting officer's sole aim was to award a contract to Global. There is no evidence in the record to support that contention. Rather, it appears that proposals were solicited and evaluated in good faith and that the selection of Global was consistent with the established evaluation factors.

Accordingly, for the foregoing reasons, the protest is denied.

R. F. Kettner
Deputy, Comptroller General
of the United States